DOCKET FILE COPY ORIGINAL

*JAMES RAMSAY * P.O. BOX 684 * WASHINGTON, D.C. * 20044-0684*

EX PARTE OR LATE FILED

April 27, 1998

RECEIVED

APR 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: ***In the Matter of Federal-State Joint Board on Universal Service,* (CC Docket No. 96-45)**

***In the Mater of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs,* (CC Docket 97-160**

Dear Ms. Salas:

Pursuant to the FCC's *ex parte* rules, 47 C.F.R. § 1.1206(1), I am submitting, for the record, copies of this letter for filing in the above-captioned proceedings. Copies have been e-mailed to the offices of all FCC Commissioners and the Chief of the Common Carrier Bureau.

On April 5 – 7, 1998, a number of State agencies sent Staff representatives to Austin, Texas to discuss several alternatives to the cost model proposal outlined in the above-captioned proceeding. State Staff members of the § 254 Federal State Joint Board were present. There were a few communications after that meeting also involving Joint Board Staff members that had attended the Austin meetings to further discuss the alternatives raised at the meeting.

I was requested by those present to file this letter to (a) inform interested FCC staff and industry of the proposals discussed and (b) assure compliance with the FCC's *ex parte* regulations. Many of those attending the Austin meeting also requested I make sure this notice is filed by the FCC April 27th deadline for final submission of alternatives to the FCC's High Cost Fund proposal in these dockets. *This will allow those commenting on the various proposals filed today in response to the April 15, 1998 Public Notice [DA 98-715] to also consider and reply to ideas raised during the Austin meetings.*

A list of the attendees, a summary of the meeting discussions, and a summary of the alternatives presented is attached.

Respectfully submitted,

James Bradford Ramsay

No. of Copies rec'd 0+1
List ABCDE

A. Attendees at Austin Staff Meeting on High Cost Fund Alternatives

1 Peter Bluhm - Vermont PSB (pbluhm@psb.state.vt.us)
2 Charles Bolle - South Dakota (charlieb@puc.state.sd.us)
3 Sarah Bradshaw - Arkansas PSC (smb@psc.state.ar.us
4 Ben Childers - Missouri PSC (bchilder@services.state.mo.us)
5 Rowland Curry - Texas (curry@puc.state.tx.us)
6 Joe Cusick - Idaho PUC (jcusick@puc.state.id.us)
7 David Dowds - Florida PSC (ddowds@psc.state.fl.us)
8 Bridget Duff - Florida PSC (bduff@psc.state.fl.us)
9 Greg Fogelman - Florida PSC (gfogelman@psc.state.fl.us)
10 Carl Johnson - New York (caj@dps.state.ny.us)
11 Sheldon Katz - Vermont DPS (katz@psd.state.vt.us)
12 Lori Kenyon - Alaska PUC (lori_kenyon@commerce.state.ak.us)
13 Sam Loudenslager - Arkansas (sam_loudenslager@psc.state.ar.us)
14 Sandra Makeef - Iowa (smakeef@max.state.ia.us)
15 Phil McClelland - Pennsylvania Consumer Advocate (paoca@ptd.net)
16 Barbara Meisenheimer - Missouri Office of Public Counsel
17 Thor Nelson - Colorado Office of Consumer Counsel (thor.nelson@dora.state.co.us).
18 Mary Newmeyer - Alabama (mnewmeyer@psc.state.al.us)
19 Barry Payne - Indiana Consumer Counsel (bpayne@ucclan.state.in.us)
20 Steve Puican - Ohio PUC (steve.puican@puc.state.oh.us)
21 Mindy Shalaby - Oklahoma (m.shalaby@occmail.occ.state.ok.us)
22 Joel Shifman - Maine (joel.shifman@state.me.us)
23 Brian Roberts - California (bpr@cpuc.ca.gov)
24 Warren Wendling - Colorado (warren.wendling@dora.state.co.us)
25 Tom Wilson - Washington UTC (tomw@wutc.wa.gov)
26 Diana Zake - Texas PUC (zake@puc.state.tx.us)

NRRI Moderators: Dave Wirick - (wirick.2@osu.edu)
Vivian Witkind-Davis - (davis.241@osu.edu)

B. Summary of April 5-7. 1998 Meeting

Twenty-six staff from state commissions and consumer advocates offices, including state staff who are members of the federal-state joint board on universal service, met to discuss implementation of new funding mechanisms for the federal high-cost fund to help support universal service. The discussion was moderated by the National Regulatory Research Institute.

Attendees first reviewed Universal Service principles listed in the Telecommunications Act of 1996, the FCC's 1997 universal service order, FCC Chairman William Kennard's recent speech to NASUCA and other documents. Staff then attempted to define a focus for the meeting, for which there were varying ambitions. Exchange of information, identification of high cost fund issues, clarification of alternatives and their feasibility, recognition of the diverse needs of the states, setting out a policy direction, and consensus on goals and constraints were mentioned as aims within the limited time of the meeting. The hope was expressed that the range of alternatives for funding and distributing USF funds could be narrowed to one or a few that, at least those present, could tentatively agree have strong potential for widespread state support. The goals for the meeting were largely met.

Critical issues that would affect the feasibility of any solution were identified. These included:

- the size of the fund
- the degree of state responsibility
- the role of competition
- definition and measurement of universal service, affordable rates and comparable rates
- allocation of funds among inter- and intra-state jurisdictions, large and small companies and rural and non-rural companies and areas
- costing approaches (including cost models currently before the FCC and embedded cost approaches)
- the degree to which the USF should supplant existing implicit and explicit subsidies.

Four major impediments to achieving state consensus were identified:

1. uncertainty about cost models and their inputs;
2. uncertainty about the overall impact of any option for USF funding in the complex context of evolving telecommunications policy;
3. disagreement on the operational definitions of key concepts; and
4. differences in state laws, policies, circumstances and goals. Staff from several states expressed concern that it would not be appropriate to make a commitment to any state-proposed alternative without full knowledge of the results of current FCC deliberations, including the specific dollar impact that an FCC decision would have on each state.

A number of alternatives for high cost funding were discussed. The FCC's proposed methodology. which is based on a contribution from the interstate jurisdiction of 25 percent of the calculated support with the States potentially responsible for the remaining 75 percent, was generally considered unacceptable and noted only briefly.

What came to be called Option 1 was prepared by the NARUC Ad Hoc Working Group on Funding for High Cost Areas. Staff from two states presented the proposal, which was discussed at length. This option would distribute funds to states with average costs above an established national average. Funds would be received by states based on the lesser of embedded costs and forward looking economic costs based on the proxy models before the FCC. In addition, states would be "held harmless" from contributing more than they do under the USF that existed prior to the Telecommunications Act.

After extensive and thorough discussion of Option 1, a second option was suggested.

Option 2 would vary interstate contributions to the USF based on state average forward-looking costs and the percentage of interstate use of the specific state. The intent would be to direct a greater proportion of USF dollars to states with high average costs and a high percentage of interstate use.

This would be implemented through a floating benchmark of per line costs. Under Option 2 a state with lower average costs would have lower benchmarks (hence lower contributions from the interstate jurisdiction through the high cost fund) and states with higher average costs would have higher benchmarks (hence higher contributions from the high cost fund). A state with high average costs but a low percentage of interstate use would receive less from the federal fund than a state with equally high average costs but a lower percentage of interstate use.

A third option was proposed that would vary the percent federal share of support by state according to company or state average cost.

The attendees reached consensus on a number of points.

Consensus was defined as meaning an unqualified yes to the position, or that the decision is perfectly acceptable, or that participants can live with the decision, or that participants do not fully agree but will stand aside.

With the staff representative from Oklahoma abstaining, consensus was reached on the following:

1. The states should continue to contribute to the FCC's development of federal universal service fund policy now. (Several participants did not fully agree with this point and stood aside.)

2. The USF should target high cost funds to high cost areas, but this should not result in company windfalls.

3. The USF system should impede neither competition nor sufficient investment.

4. No USF funding option presented to date, including the existing FCC plan, is satisfactory to all the attendees at the meeting.

5. Too large a USF fund may be untenable and too small a fund may be insufficient.

6. States have some responsibility for maintaining affordable rates. (The representative from the Vermont DPS did not fully agree with this point and stood aside.)

7. A new USF plan should remedy at least the most serious inequities in the current system.

8. Options 1, 2 and 3 are worthy of further exploration.

Having decided that Options 1, 2, and 3 deserve further development, various staff volunteered to work on the options.

C. Expanded Descriptions of the Options provided after the meeting:

As a result of a few phone conferences that occurred shortly after the meeting adjourned – involving various small subsets of those that attended the Austin meeting, the following "expanded descriptions" of each option was provided for inclusion with this ex parte notice.

1. **Option 1 - Ad Hoc Working Group Proposal**

It is my understanding that the most recent version of the AHWG proposal, which was discussed at the Austin meeting, is being filed today in this docket {CC Docket Nos. 96-45 and 97-160), by Commissioners Thomas Welch (ME) and Thomas Dunleavy (NY), as co-chairs of the Ad Hoc Working group - in response to the [DA 98-715] April 15, 1998, Public Notice captioned "COMMON CARRIER BUREAU SEEKS COMMENT ON PROPOSALS TO REVISE THE METHODOLOGY FOR DETERMINING UNIVERSAL SERVICE SUPPORT." To avoid duplicate filings, I will only reference that document here.

2. **Option 2 - Variable Benchmark Option**

Under the variable benchmark option, the federal high cost program would supply 100% funding support to areas served by LECs whose costs to serve an area exceed a benchmark that varies from state to state. The cost would be determined by using a forward-looking economic cost proxy model. Conceptually, the benchmark would vary based on a measure that reflects a state's ability to internally support and fund universal service requirements. States that have a relatively low ability to internally support universal service would have a relatively low benchmark, while states that have a relatively high ability to internally support universal service would have a relatively high benchmark. The presentation of this option does not address whether the plan should be applied to all carriers, or only to non-rural carriers.

The variable benchmark would be based on two principal components: (1) the state's forward-looking economic cost as determined by the cost proxy model; and (2) the state's ability to internally fund its universal service requirements. This option contemplates that the first component would require the use of a forward-looking cost model for determining costs on a relatively small geographic basis. Creation of a state high cost fund is neither required nor precluded under this option. Eligible Telecommunications Carriers would be reimbursed directly by the federal high cost fund administrator for customers served within the high cost area. This approach would ensure that all of the very highest cost areas throughout the nation are supported through the federal program.

Incorporating the second component -- a state's ability to fund its universal service requirements internally -- into a variable benchmark would be a two-step process. First, a methodology must be selected that serves to differentiate among states that will get more versus less support. Second, that methodology must be used to vary the benchmark over the range of benchmarks to be considered. As an example, "State A" might have a large revenue base that would require less support, and its benchmark for the federal fund might be $75, while "State B" might require more support, and would have a federal funding benchmark of $40. The methodology used to differentiate among the states must be based on independent, publicly available data. Such a methodology might recognize the ratio of intrastate revenues to total revenues; the ratio of intrastate traffic volumes to total traffic volumes; the degree of variability of cost throughout the state; the ratio of lines located in urban and rural areas of the state; the state's ability to keep local rates within a reasonable range: a measure of local competition in the state; or some combination of these or other measures. Other parties may provide different logical and relevant choices for the methodology to be used in this option, and the FCC should consider all reasonable alternatives.

Because the FCC has not yet chosen the most appropriate forward-looking cost model or its inputs, this option is presented on a conceptual basis at this time. It is meaningless to calculate a total fund size or a state-by-state distribution of support resulting from use of this option without resolving the cost model platform issues, choice of inputs, geographical support area and the methodology(ies) for varying the benchmark. Because of the wide range of options, however, it is clear that this option could be designed to provide a wide range of support amounts while reasonably controlling the size of the federal fund.

3. Option 3 -Variable Support Option

Under this option, the support amount for each Eligible Telecommunications Carrier would be computed as the difference between the cost of serving an area and a nation-wide benchmark; however, the federal percentage of high cost funding would vary from state to state. In contrast to the plan adopted in the FCC's May 8, 1997 order in which the payment of federal support remains a constant 25% in all states, under this option the percentage of federal support provided will vary depending on the state's ability to internally support universal service. States that have a relatively low ability to internally support and fund universal service will have a relatively high percentage of support provided through the federal program, while states that have a greater ability to internally support universal service will receive a lower percentage of federal support. The presentation of this option does not address whether the plan should be applied to all carriers, or only to non-rural carriers.

Like the variable benchmark option, this option would reflect the state's ability to fund its universal service requirements internally. This option contemplates the use of a forward-looking cost model for determining the amount of support on a relatively small geographic basis. However, contrasted with the variable benchmark option, the variable support option would utilize a single benchmark for all states. Variability would occur in the percentage of the federal contribution to the support of the high cost areas for each state. This variability would be based on a methodology that would yield a range of funding percentages. As with the variable benchmark option, any methodology used for this purpose should be based on independent, publicly available data. The methodology for varying the federal support percentage might include the ratio of intrastate revenues to total revenues; the ratio of intrastate traffic volumes to total traffic volumes; the degree of variability of cost throughout the state; the ratio of lines located in urban and rural areas of the state; the state's ability to keep local rates within a reasonable range; a measure of local competition in the state; or some combination of these or other measures. Other parties may provide different logical and relevant choices for the methodology to be used in this option, and the FCC should consider all reasonable alternatives.

Because the FCC has not yet chosen the most appropriate forward-looking cost model or its inputs, this option is presented on a conceptual basis at this time. It is meaningless to calculate a total fund size or a state-by-state distribution of support resulting from use of this option without resolving many issues, including the choice of the cost model platform, choice of inputs, geographical support area and the methodology(ies) to be used for varying the federal support amount. Because of the wide range of options, however, it is clear that this option could be designed to provide a wide range of support amounts while reasonably controlling the size of the federal fund.